



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1610

Introduced 2/9/2007, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

210 ILCS 85/10.4

from Ch. 111 1/2, par. 151.4

Amends the Hospital Licensing Act. In connection with provisions concerning summary suspension of a person's medical staff membership or clinical privileges, provides that an immediate danger to the public must be evidenced by a documented act or acts that directly threaten patient care in the hospital and are not of an administrative nature. Provides that when a medical staff member's license to practice has been suspended or revoked by the State's licensing authority, a hearing is not necessary. Provides that all peer review shall be conducted in accordance with the medical staff bylaws and that independent peer review services may be used in the medical staff credentialing and privileging process when authorized.

LRB095 04850 DRJ 24912 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Hospital Licensing Act is amended by
5 changing Section 10.4 as follows:

6 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

7 Sec. 10.4. Medical staff privileges.

8 (a) Any hospital licensed under this Act or any hospital
9 organized under the University of Illinois Hospital Act shall,
10 prior to the granting of any medical staff privileges to an
11 applicant, or renewing a current medical staff member's
12 privileges, request of the Director of Professional Regulation
13 information concerning the licensure status and any
14 disciplinary action taken against the applicant's or medical
15 staff member's license, except: (1) for medical personnel who
16 enter a hospital to obtain organs and tissues for transplant
17 from a donor in accordance with the Illinois Anatomical Gift
18 Act; or (2) for medical personnel who have been granted
19 disaster privileges pursuant to the procedures and
20 requirements established by rules adopted by the Department.
21 Any hospital and any employees of the hospital or others
22 involved in granting privileges who that, in good faith, grant
23 ~~grants~~ disaster privileges pursuant to this Section to respond

1 to an emergency shall not, as a result of their ~~his, her, or~~
2 ~~its~~ acts or omissions, be liable for civil damages for granting
3 or denying disaster privileges except in the event of willful
4 and wanton misconduct, as that term is defined in Section 10.2
5 of this Act. Individuals granted privileges who provide care in
6 an emergency situation, in good faith and without direct
7 compensation, shall not, as a result of their ~~his or her~~ acts
8 or omissions, except for acts or omissions involving willful
9 and wanton misconduct, as that term is defined in Section 10.2
10 of this Act, on the part of the person, be liable for civil
11 damages. The Director of Professional Regulation shall
12 transmit, in writing and in a timely fashion, such information
13 regarding the license of the applicant or the medical staff
14 member, including the record of imposition of any periods of
15 supervision or monitoring as a result of alcohol or substance
16 abuse, as provided by Section 23 of the Medical Practice Act of
17 1987, and such information as may have been submitted to the
18 Department indicating that the application or medical staff
19 member has been denied, or has surrendered, medical staff
20 privileges at a hospital licensed under this Act, or any
21 equivalent facility in another state or territory of the United
22 States. The Director of Professional Regulation shall define by
23 rule the period for timely response to such requests.

24 No transmittal of information by the Director of
25 Professional Regulation, under this Section shall be to other
26 than the president, chief operating officer, chief

1 administrative officer, or chief of the medical staff of a
2 hospital licensed under this Act, a hospital organized under
3 the University of Illinois Hospital Act, or a hospital operated
4 by the United States, or any of its instrumentalities. The
5 information so transmitted shall be afforded the same status as
6 is information concerning medical studies by Part 21 of Article
7 VIII of the Code of Civil Procedure, as now or hereafter
8 amended.

9 (b) All hospitals licensed under this Act, except county
10 hospitals as defined in subsection (c) of Section 15-1 of the
11 Illinois Public Aid Code, shall comply with, and the medical
12 staff bylaws of these hospitals shall include rules consistent
13 with, the provisions of this Section in granting, limiting,
14 renewing, or denying medical staff membership and clinical
15 staff privileges. Hospitals that require medical staff members
16 to possess faculty status with a specific institution of higher
17 education are not required to comply with subsection (1) below
18 when the physician does not possess faculty status.

19 (1) Minimum procedures for pre-applicants and
20 applicants for medical staff membership shall include the
21 following:

22 (A) Written procedures relating to the acceptance
23 and processing of pre-applicants or applicants for
24 medical staff membership, which should be contained in
25 medical staff bylaws.

26 (B) Written procedures to be followed in

1 determining a pre-applicant's or an applicant's
2 qualifications for being granted medical staff
3 membership and privileges.

4 (C) Written criteria to be followed in evaluating a
5 pre-applicant's or an applicant's qualifications.

6 (D) An evaluation of a pre-applicant's or an
7 applicant's current health status and current license
8 status in Illinois.

9 (E) A written response to each pre-applicant or
10 applicant that explains the reason or reasons for any
11 adverse decision (including all reasons based in whole
12 or in part on the applicant's medical qualifications or
13 any other basis, including economic factors).

14 (2) Minimum procedures with respect to medical staff
15 and clinical privilege determinations concerning current
16 members of the medical staff shall include the following:

17 (A) A written notice of an adverse decision.

18 (B) An explanation of the reasons for an adverse
19 decision including all reasons based on the quality of
20 medical care or any other basis, including economic
21 factors.

22 (C) A statement of the medical staff member's right
23 to request a fair hearing on the adverse decision
24 before a hearing panel whose membership is mutually
25 agreed upon by the medical staff and the hospital
26 governing board. The hearing panel shall have

1 independent authority to recommend action to the
2 hospital governing board. Upon the request of the
3 medical staff member or the hospital governing board,
4 the hearing panel shall make findings concerning the
5 nature of each basis for any adverse decision
6 recommended to and accepted by the hospital governing
7 board.

8 (i) Nothing in this subparagraph (C) limits a
9 hospital's or medical staff's right to summarily
10 suspend, without a prior hearing, a person's
11 medical staff membership or clinical privileges if
12 the continuation of practice of a medical staff
13 member constitutes an immediate danger to the
14 public, including patients, visitors, and hospital
15 employees and staff. An immediate danger must be
16 evidenced by a documented act or acts that directly
17 threaten patient care in the hospital and are not
18 of an administrative nature. A fair hearing shall
19 be commenced within 15 days after the suspension
20 and completed without delay, except that when the
21 medical staff member's license to practice has
22 been suspended or revoked by the State's licensing
23 authority, no hearing shall be necessary.

24 (ii) Nothing in this subparagraph (C) limits a
25 medical staff's right to permit, in the medical
26 staff bylaws, summary suspension of membership or

1 clinical privileges in designated administrative
2 circumstances as specifically approved by the
3 medical staff. This bylaw provision must
4 specifically describe both the administrative
5 circumstance that can result in a summary
6 suspension and the length of the summary
7 suspension. The opportunity for a fair hearing is
8 required for any administrative summary
9 suspension. Any requested hearing must be
10 commenced within 15 days after the summary
11 suspension and completed without delay. Adverse
12 decisions other than suspension or other
13 restrictions on the treatment or admission of
14 patients may be imposed summarily and without a
15 hearing under designated administrative
16 circumstances as specifically provided for in the
17 medical staff bylaws as approved by the medical
18 staff.

19 (iii) If a hospital exercises its option to
20 enter into an exclusive contract and that contract
21 results in the total or partial termination or
22 reduction of medical staff membership or clinical
23 privileges of a current medical staff member, the
24 hospital shall provide the affected medical staff
25 member 60 days prior notice of the effect on his or
26 her medical staff membership or privileges. An

1 affected medical staff member desiring a hearing
2 under subparagraph (C) of this paragraph (2) must
3 request the hearing within 14 days after the date
4 he or she is so notified. The requested hearing
5 shall be commenced and completed (with a report and
6 recommendation to the affected medical staff
7 member, hospital governing board, and medical
8 staff) within 30 days after the date of the medical
9 staff member's request. If agreed upon by both the
10 medical staff and the hospital governing board,
11 the medical staff bylaws may provide for longer
12 time periods.

13 (C-5) All peer review shall be conducted in
14 accordance with the medical staff bylaws. Independent
15 outside peer review services may be used in the medical
16 staff credentialing and privileging process when
17 authorized under criteria set forth in the medical
18 staff bylaws.

19 (D) A statement of the member's right to inspect
20 all pertinent information in the hospital's possession
21 with respect to the decision.

22 (E) A statement of the member's right to present
23 witnesses and other evidence at the hearing on the
24 decision.

25 (F) A written notice and written explanation of the
26 decision resulting from the hearing.

1 (F-5) A written notice of a final adverse decision
2 by a hospital governing board.

3 (G) Notice given 15 days before implementation of
4 an adverse medical staff membership or clinical
5 privileges decision based substantially on economic
6 factors. This notice shall be given after the medical
7 staff member exhausts all applicable procedures under
8 this Section, including item (iii) of subparagraph (C)
9 of this paragraph (2), and under the medical staff
10 bylaws in order to allow sufficient time for the
11 orderly provision of patient care.

12 (H) Nothing in this paragraph (2) of this
13 subsection (b) limits a medical staff member's right to
14 waive, in writing, the rights provided in
15 subparagraphs (A) through (G) (excluding subparagraph
16 (C-5)) of this paragraph (2) of this subsection (b)
17 upon being granted the written exclusive right to
18 provide particular services at a hospital, either
19 individually or as a member of a group. If an exclusive
20 contract is signed by a representative of a group of
21 physicians, a waiver contained in the contract shall
22 apply to all members of the group unless stated
23 otherwise in the contract.

24 (3) Every adverse medical staff membership and
25 clinical privilege decision based substantially on
26 economic factors shall be reported to the Hospital

1 Licensing Board before the decision takes effect. These
2 reports shall not be disclosed in any form that reveals the
3 identity of any hospital or physician. These reports shall
4 be utilized to study the effects that hospital medical
5 staff membership and clinical privilege decisions based
6 upon economic factors have on access to care and the
7 availability of physician services. The Hospital Licensing
8 Board shall submit an initial study to the Governor and the
9 General Assembly by January 1, 1996, and subsequent reports
10 shall be submitted periodically thereafter.

11 (4) As used in this Section:

12 "Adverse decision" means a decision reducing,
13 restricting, suspending, revoking, denying, or not
14 renewing medical staff membership or clinical privileges.

15 "Economic factor" means any information or reasons for
16 decisions unrelated to quality of care or professional
17 competency.

18 "Pre-applicant" means a physician licensed to practice
19 medicine in all its branches who requests an application
20 for medical staff membership or privileges.

21 "Privilege" means permission to provide medical or
22 other patient care services and permission to use hospital
23 resources, including equipment, facilities and personnel
24 that are necessary to effectively provide medical or other
25 patient care services. This definition shall not be
26 construed to require a hospital to acquire additional

1 equipment, facilities, or personnel to accommodate the
2 granting of privileges.

3 (5) Any amendment to medical staff bylaws required
4 because of this amendatory Act of the 91st General Assembly
5 shall be adopted on or before July 1, 2001.

6 (c) All hospitals shall consult with the medical staff
7 prior to closing membership in the entire or any portion of the
8 medical staff or a department. If the hospital closes
9 membership in the medical staff, any portion of the medical
10 staff, or the department over the objections of the medical
11 staff, then the hospital shall provide a detailed written
12 explanation for the decision to the medical staff 10 days prior
13 to the effective date of any closure. No applications need to
14 be provided when membership in the medical staff or any
15 relevant portion of the medical staff is closed.

16 (Source: P.A. 93-794, eff. 7-22-04; 93-829, eff. 7-28-04;
17 revised 11-22-05.)